

U.S. Patent Application No. 10/537,001
Supplemental Preliminary Amendment and Response
to Restriction Requirement and Election of Species
Requirement dated July 14, 2006
Reply to Office Action dated May 16, 2006

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

Full support for the amendment can be found throughout the present application, including the claims as originally filed. By way of this amendment, claims 1 and 43 have been canceled and claims 26, 27, 28, 33, 34, 37, 38, and 46 have been amended. Accordingly, no questions of new matter should arise and entry of this amendment is respectfully requested.

At page 2 of the Office Action, the Examiner sets forth an eight-way restriction requirement as follows:

- I. Claims 1, 26, 33-34 (in part), 37-38, and 42-43, drawn to an agent for inhibiting metastasis of colorectal cancer, wherein the agent inhibits the expression of Asef.
- II. Claims 33-34 (in part), 37, 39, 42-43, and 48, drawn to an agent for inhibiting metastasis of colorectal cancer, wherein the agent inhibits the expression of APC.
- III. Claims 1 and 27, drawn to an agent for inhibiting metastasis of colorectal cancer, wherein the agent inhibits the binding of Asef to the gene product of APC.
- IV. Claims 1 and 28, drawn to an agent for inhibiting metastasis of colorectal cancer, wherein the agent inhibits the guanine nucleotide exchange factor activity of Asef.
- V. Claims 29-30, 35-36 (in part), 40-41, 44-47, and 50, drawn to a method for inhibiting metastasis of colorectal cancer, wherein the method comprises inhibiting the expression or function of the Asef of claim 38.
- VI. Claims 35-36 (in part), 41, 44, 49, and 51, drawn to a method for inhibiting metastasis of colorectal cancer, wherein the method comprises using the agent that inhibits APC.

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- VII. Claims 29 and 31, drawn to a method for inhibiting metastasis of colorectal cancer, wherein the method comprises inhibiting the binding of Asef to the gene product of APC.
- VIII. Claims 29 and 32, drawn to a method for inhibiting metastasis of colorectal cancer, wherein the method comprises inhibiting the guanine nucleotide exchange factor activity of Asef.

To be responsive, the applicants elect, with traverse, Group I, now directed to claims 26, 33-34 (in part), 37-38, and 42, of the present application.

For the following reasons, the restriction requirement is respectfully traversed.

With regard to the claims, it is respectfully submitted that all claims should be examined at this time since there appears to be no serious burden on the part of the Examiner to search the entire scope of the claims. Contrary to the Examiner's comments, unity clearly exists with all claims. The International Search Authority found a single inventive concept by examining all claims. The Examiner's restriction contradicts this previous finding. Further, it is believed that the subject matter has the same concept from the standpoint that the searches would overlap. Under M.P.E.P. § 803, if there is no serious burden in the examination of all of the claims even if the claims are directed to separate inventions, the Examiner must examine all claims at this time. It would appear that § 803 applies to the current situation and therefore the restriction requirement should be withdrawn and all claims should be examined at this time. The Examiner should re-group these non-elected claims upon the allowability of the Group I subject matter.

At a minimum, Group V should be examined with Group I. The searches will clearly overlap.

With respect to the Examiner's comments regarding Kawasaki et al. in view of Senda et al., the applicants respectfully disagree with the alleged teachings of these references. At page 3 of the

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Office Action, the Examiner refers to an article by Senda et al., but a copy was not provided. Applicants did submit, by way of an Information Disclosure Statement, a different article by Senda et al. and it is not clear if the Examiner intended to rely on that article. Clarification is respectfully requested. Furthermore, the applicants are entitled to an additional opportunity to respond to these comments in view of the fact that the Senda article relied upon by the Examiner was not provided to applicants. If the Examiner intended to rely upon the Senda article provided by way of the Information Disclosure Statement, the applicants provide the following comments. Based on the partial English translation, Senda et al. clearly states that a "future task" is to explore the cytoskeleton-mediated effect of APC on cell motility associates with the tumor suppressor function thereof. This description would indicate that the action on cell motility does not readily and does not directly concern itself with the metatasis of a tumor cell. In view of this statement, the combined references by the Examiner would not effect the general inventive concept of the claimed invention.

At page 5 of the Office Action, the Examiner also sets forth an election of species requirement.

In response to the requirement of election of species, the applicants elect with traverse the oligonucleotide sequence of SEQ ID NO: 1.

The Examiner should examine all species at this time. Elected claims 26, 33, 34, 37, 38, and 42 and non-elected claims 27-32, 35, 36, 40, and 44-51 read on this elected species.

The applicants believe that the remaining species can be examined at this time since there appears to be no serious burden on the part of the Examiner to search the entire scope of the claims.

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At a minimum, the Examiner should proceed with examination of the remaining species upon determining the patentability of the elected species.

If there are any other fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

Respectfully submitted,



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